THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF CONSUMER AFFAIRS
DIVISION OF INSURANCE
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(617) 727-7189

KAY DOUGHTY
COMMISSIONER

OPINION, FINDINGS AND ORDER

(RELATIVE TO THE SAFE DRIVER INSURANCE PLAN)

FOR AUTOMOBILE INSURANCE FOR 1992

December 16, 1991 Docket No. G91-17

Pursuant to Chapter 175A, Chapter 175E and Section 113B of Chapter 175 of the Massachusetts General Laws, a hearing was begun on June 20, 1991, at the offices of the Division of Insurance ("Division") for the purpose of considering amendments to the Safe Driver Insurance Plan for policy year 1992. There were three formal parties to this hearing. Stephen J. D'Amato represented the State Rating Bureau ("SRB") of the Division. The Automobile Insurers Bureau of Massachusetts ("AIB"), a rating organization of insurers writing automobile insurance in Massachusetts, was represented by Michael B. Meyer and E. Michael Sloman. Hilary Rowen, Ernest Sarason and Pablo Landrau represented Attorney General Scott Harshbarger ("AG"). Also appearing in this proceeding was Joseph P. Hegarty, Jr., on behalf of the United Services Automobile Association ("USAA").

Section 38 of Chapter 273 of the Acts of 1988 ("Chapter 273"), commonly known as the Automobile Insurance Reform Act, authorized the Commissioner of Insurance to establish a Safe Driver Insurance Plan ("SDIP" or, the "Plan") classification and premium adjustment system which revised the previous SDIP by allowing greater credits for drivers with clean driving records, and greater upward premium adjustments for drivers with accumulated unsafe driver points, while also being actuarially sound. Chapter 273 granted the Commissioner the authority to determine the length of the experience period to

be used in establishing the classification status of individual drivers, the number of classifications, the size of the premium adjustments, and the initial classification assignments.

On January 1, 1990, the Commissioner established a revised SDIP, under which operators are classified in a series of steps based on their driving experience during a six-year experience period. The plan envisioned the expansion of the experience period each year to include an additional year.

The 1991 SDIP amended the 1990 SDIP in two significant respects: by the inclusion of out-of-state driving experience, and by capping the length of the experience period. These changes ensured that the SDIP would be in compliance with Chapter 171 of the Acts of 1990 ("Chapter 171").

In accordance with Chapter 171, the SDIP for 1991 provided that the experience period for surcharge purposes would be limited to five years. In order to provide credits which would afford a reasonable incentive to good drivers, and maintain the revenue-neutrality of the Plan, the experience period for assigning credits was limited to six years. In his decision approving the SDIP, the Commissioner noted that this would prevent growth in the rate offset, and ensure that those risks now rated at Step 9 (the best step), could continue to be so rated.

The legislative mandate to include out-of-state driving experience required the Commissioner to overcome the problems which had theretofore prevented SDIP plans from either

crediting or surcharging drivers for their experience prior to moving to Massachusetts. Most significant was the fact that states do not maintain information uniformly, and that the Massachusetts Merit Rating Board ("MRB") retains records of more years of, and more types of, operating offenses than do most other states. Further, access to the out-of-state records which do exist was hindered by the lack of a national data bank.

To address this problem, yet allow drivers to be rated for the SDIP based on their out-of-state experience, the 1991 SDIP provided that the application for Massachusetts Motor Vehicle Insurance and the Massachusetts Motor Vehicle Insurance Renewal application would include questions regarding a driver's experience for the last five years. Drivers would then be placed by the MRB at an SDIP step reflecting the answers to those questions, as well as any Massachusetts experience within the experience period.

The 1990 SDIP also included a transitional "clean slate" provision: after three consecutive years of incident-free driving, a driver still carrying surcharges which would place him or her above the neutral step would be moved to a credit step (Step 14) and the balance of points accumulated before the three year period was forgiven. Last year, the Commissioner extended the three year clean slate provision for another year.

This year, AIB recommends that the 1992 SDIP continue to utilize the same number of years of experience and the same range of steps for rating drivers; and that there be no change

in the coverages to which the SDIP applies, in the step movement values of particular incident types, or in the step differentials for either the liability coverages or the Collision coverage. The AIB also recommends the continuation of the current treatment of Buell Amendment violations. Further, the AIB recommends that there be no change to the balancing and reconciliation procedures. Ruy Cardosa, Vice President and Chief Actuary of the AIB, testified in support of the AIB's recommendations on the SDIP. The AG and the SRB join the AIB in these recommendations.

Additionally, the AIB recommends that the three-year clean slate provision, adopted as a transitional rule, be retained for another year. The SRB and the AG concur in this recommendation as well.

I find that the SDIP as proposed by the parties and applied as ordered above, to be fair, reasonable, and in compliance with the applicable statutes. Further, based on the evidence presented in this matter, I find the plan to be actuarially sound. The 1992 SDIP will take effect January 1, 1992.

Not addressed last year, nor resolved in the AIB filing, is an issue raised in this hearing by an individual consumer: whether the SDIP should be applied to those policies commonly called "national standard policies." Those policies are available to those individuals who are exempt from state laws requiring the registration of their vehicles in Massachusetts.

Eligible individuals are primarily military personnel who reside in Massachusetts but who are domiciled in another state, and are thus exempted from Massachusetts registration requirements by the Soldiers and Sailors Relief Act of 1940.

Although no party disputes that the national standard policies are to be issued in accordance with Massachusetts rates, current SDIP regulations do not specify whether the Plan should apply to the rates charged for the national standard policies. See, 211 CMR 126.02, 126.04 (2).

It is evident that, as a practical matter, prior to the 1991 revisions which provided for the use of out-of-state driving experience, the SDIP could only apply to operators licensed in this state, and thus not be applied to the national standard policies. Companies which wrote these policies therefore did so without regard to the SDIP step of the operators listed on the policy, rating all operators at Step 15, the neutral step. Now that provision has been made for the inclusion of out-of-state experience, however, the question is presented as to whether these policies should have an SDIP rating applied.

The AIB, the SRB and the AG took no position on this issue. However, the AIB suggested that USAA be invited to comment, as in Massachusetts it is the largest single writer of these policies. In response to this inquiry, counsel for USAA voiced the company's support in principle for the application of the SDIP to the national standard policies. USAA had,

however, identified logistical problems which would prevent it from immediately implementing the system, and expressed concerns regarding the timing of any requirement that the SDIP be thus applied.

Upon review, I find no equitable reason not to apply the SDIP to those policies. The rates established by the Commissioner for Massachusetts private passenger automobile insurance include the SDIP. The sole barrier to implementation of the SDIP for these policies, i.e., the impossibility of determining an appropriate SDIP step for those eligible for these policies, was removed last year with the approval of a procedure to utilize out-of-state experience.

Therefore, I order that effective January 1, 1992, the SDIP will be applied to all national standard form policies written in Massachusetts in the same manner in which it is applied to policies written under the compulsory insurance law. I find further that the companies which write these policies should be allowed a reasonable period of time in which to implement this change, and will allow them until July 1, 1992 in which to do so. In order to prevent a delay in implementation from resulting in an undue hardship to consumers, I order that when the necessary processing changes are implemented at each company, they are to be made retroactive to all policies issued on or after January 1, 1992.

This decision has been affirmed by the Commissioner of Insurance. Any person or organization aggrieved by any part of

this decision may, within twenty days from this date, file a petition for review by the Supreme Judicial Court as provided in Section 113B of Chapter 175 of the Massachusetts General Laws.

This decision has been filed this sixteenth day of December 1991, in the office of the Commissioner of Insurance and with the Secretary of State as a public document.

Susan G. Anderson
Presiding Officer

AFFIRMED:

Kay Doughty
Commissioner of Insurance

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KAY DOUGHTY
COMMISSIONER

OPINION, FINDING AND ORDER

(RELATIVE TO RATING TERRITORIES AND CLASSIFICATIONS)

FOR AUTOMOBILE INSURANCE IN 1992

December 16, 1991

Docket No. G91-18

Pursuant to G.L. c. 175, sec. 113B, it has long been the practice of the Commissioner of Insurance to divide the Commonwealth into "territories" as part of the process of classifying risks and determining premium rates for private passenger automobile insurance. Under this system, each of the state's cities and towns are grouped into a particular territory based on the similarity of their claims frequency experience.

The Commonwealth is currently divided into 26 non-contiguous rating territories. Territories 1 through 16 comprise all the cities and towns excluding Boston. Territories 17 through 26 consist of the several sections or neighborhoods of Boston. Each locality is allocated to a particular territory based on "relativities", which are derived from statistical claims data for the four most recent years for which such data are available. It has recently been the practice of the Commissioner to review the territorial rating assignments in even numbered years and to make the corresponding reassignment or reallocation of cities and towns into the appropriate indicated territories for the subsequent two year period. However, as provided in the Commissioner's Decision Relative to Rating Territories and Classifications dated August 3, 1990, a hearing was held this year to consider

whether the so-called 'capping' of territorial movement should be modified in certain circumstances to permit movement every year.

As part of the territorial assignment process, claims frequency data is reviewed to determine whether a particular city or town should be moved from its current territory to one which is one or more levels higher or lower. However, in order to avoid frequent changes in the premiums paid by consumers, the Commissioner has limited the movement of any city, town or neighborhood to one level per reassignment, i.e., one movement per two-year period. Such capping provides a degree of rate stability for consumers by preventing the frequent movement of individual localities, even if the statistical data indicates that a greater degree of movement is otherwise warranted. This is especially important if the change in claims frequency has been due to a short-term phenomenon in the locality. However, the AIB has argued that this capping limitation has acted to prevent certain localities from ever reaching their proper assignment because their relative position changes more than one territory every two years.

In 1990 the AIB requested that it be allowed additional reassignments in 1992 for cities and towns which would have moved two or more territories in 1991, had the capping limits not prevented it. Thirty-eight cities or towns fell into this category - 15 of those would go up one additional territory and 23 would go down to the next lower territory. The SRB opposed

the request of the AIB, while the AG proposed a compromise which would have allowed for the 1992 reassignment of a smaller number of localities, specifically, those 14 towns that had been subject to the capping limitation in both of the two most recent territorial reviews.

In his decision on that issue, the Commissioner opted for a pilot-study of second year reassignment which would potentially allow for the reassignment of the 14 cities or towns proposed by the AG. This additional analysis would require the AIB to compute the 1986-1989 Liability and Package Pure Premiums for the 14 towns under consideration for comparison to the indications for 1985-1988 (which were the basis of the reassignment for 1991), and would serve as a means of confirming the AIB's assertion that a second year reassignment was appropriate.

Upon further consideration of the feasibility and cost-efficiency of conducting the analysis proposed by the 1990 decision, the AIB recommended that no changes in the 1992 territorial assignments be made from those established for 1991. Neither the SRB not the AG objected to the adoption of the AIB recommendation.

Based on the record presented here, I will accept the AIB recommendation, and order that the territorial assignments for policy year 1992 shall be the same as those established for policy year 1991.

This decision has been affirmed by the Commissioner of Insurance. Any person or organization aggrieved by any part of this decision may, within twenty days from this date, file a petition for review by the Supreme Judicial Court as provided in Section 113B of Chapter 175 of the Massachusetts General Laws.

This decision has been filed this sixteenth day of December, 1991 in the Office of the Commissioner of Insurance and with the Secretary of State as a public document.

Susan G. Anderson
Presiding Officer

AFFIRMED:

Kay Doughty
Commissioner of Insurance